

Statement by Senator Allen on Airline Competition

Mr. Chairman, thank you very much for calling this hearing on such a critical and timely issue. This issue of market consolidation is not unique to the airline industry, but is being experienced across our economic landscape as the expansion of international trade and gains in reducing unit costs and improving labor productivity forces companies to seek greater economies of scale wherever possible. This consolidation is evident throughout the transportation industries, from steamship companies, with the purchase of SeaLand by Maersk from CSX, to railroads, and to automobile manufacturing. But not many passengers travel by steamship these days, and so it doesn't become a matter of general public discussion as does airline consolidation.

I share with you, Mr. Chairman, as I believe every Member of this Committee does, the absolute commitment to seeing that the United States commercial aviation market is competitive, safe and efficient. Safety and efficiency are truly the providence of the Federal Aviation Administration, and this Committee has a lot of work ahead of it to try to fix the severe stresses the Air Traffic Control system is experiencing.

And on the issue of competition, the Sherman and Clayton Acts lay down, as you well know, clear guidelines under which the Department of Justice must analyze any potential merger that could impact competition within an industry. For the last seven months, I understand the Department of Justice has been intimately involved with the parties to the United – US Airways merger, and that this process will most likely be continuing into April of this year. I also understand that the Department of Justice has been raising a number of concerns regarding the proposed merger, concerns that have required significant changes to the original merger proposal, and that this merger proposal is by no means a done deal.

While I was Governor of Virginia, I learned first-hand how complex and time-consuming the regulatory review process can be. For a \$13 billion deal like that being proposed by United and US Airways, and now also American Airlines, I can only imagine how much more so it must be here. I raise this issue because throughout the testimony and statements here today, I have not heard much about the inadequacy of the current merger antitrust review process. In fact, I can remember the strong objections many Members of the Senate have taken to other antitrust measures initiated by the Department of Justice, most noticeably the case against Microsoft, or even the hostility evinced by Justice to the initial forays by Northwest and Continental to some type of merger. Before I came here, my impression was that many Senators believed Justice was TOO aggressive in antitrust enforcement, not too lax.

Given that, I think that we need to move cautiously before we pre-judge the decision making process underway at the Department of Justice. The fact of

the matter is that Justice could still deny this merger application and that the concerns raised today may very well be moot.

But meanwhile, there is something that is proceeding apace, regardless of what Justice decides. And that is both TWA and US Airways are in unsustainable financial situations. US Airways lost almost \$300 million last year, more than one-third of that in the last quarter alone. TWA has gone through bankruptcy twice, and I understand if not for the proposal with American, would have had to go into liquidation very soon.

Such an uncontrolled demise would be catastrophic for the communities served by these airlines. Without some type of controlled transfer of aircraft, routes, gates, airport slots, reservation systems, existing tickets, and passenger reward programs, air travelers will be left holding the bag with little recourse except to accept their personal losses and inconvenience. Meanwhile, tens of thousands of highly-paid technical employees will be abruptly laid off, and communities could very well find themselves with extremely limited, or even no air-service. Forcing such an outcome would be, in my opinion, irresponsible and ultimately more injurious to airline competition than an orderly transition overseen by the antitrust division of the Department of Justice.

So I guess that's the main point I want to make today, Mr. Chairman; the status quo is not sustainable and some type of major change in the airline industry is inevitable. TWA is on its last gasps, and US Airways is finding itself in an increasingly untenable financial situation, one that I do not believe can be maintained for any significant period. Therefore, in my opinion, the question becomes how will such inevitable change be managed?

I am heartened by the commitments United has made to the communities currently served by US Airways, as well as to the US Airways employees, especially for the communities and employees in Virginia. No one will be laid off, fares will be frozen, and service to all existing communities will be maintained. In addition, a new low-cost carrier will come into one of the highest cost airports in the country, Reagan National. Given the realities we face, this seems like an exceptionally favorable outcome to a bad situation for my constituents.

However, I realize that significant issues will still remain regarding the competitiveness of the of the US airline industry, issues that have their roots in market structures that were established before, or independently of, the current financial woes that beset TWA and US Airways. Such issues as hub dominance, market exclusion, potentially predatory behavior, and the impact of new technologies such as regional jets and Global Positioning System, all deserve full analysis, and I look forward, Mr. Chairman, to working with you to ensure a viable, competitive, safe, and efficient airline market.